

### **REMARKS**

The Office Action mailed July 30, 2003 has been received and the Examiner's comments carefully reviewed. Claim 13 has been added. No new subject matter has been added. Claims 9-12 have been cancelled. Claims 1-7 and 13 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

Applicants note that an Information Disclosure Statement was submitted on May 13, 2002, including two sheets of a Form 1449. Only sheet 1 of the Form 1449 was received with the Office Action of July 30, 2003. Applicants request that the Examiner kindly return a copy of the initialed sheet 2 of the 1449 Form with the next communication.

### **Rejections Under 35 U.S.C. §102**

The Examiner rejected claims 1-12 under 35 U.S.C. §102(e) as being anticipated by Witty et al. (U.S. Patent Application Publication 2002/0149923 A1). Applicants respectfully traverse this rejection; however, claims 8-12 have been cancelled to advance this application to allowance.

#### **I. Claims 1-7**

Claim 1 recites a cable management cabinet assembly including a cabinet frame having vertical and horizontal support beams. The assembly also includes side walls fastened to opposed sides of the cabinet frame to define a frame interior. Further, the assembly includes vertical support members coupled to the cabinet frame at points recessed from the front of the cabinet frame. A bracket having fingers is fastened to one of the vertical support members. The fingers are spaced from the sides of the cabinet frame to create a vertical cable pathway between the fingers and one of the side walls of the assembly.

Witty does not disclose a cabinet frame as recited in claim 1. Rather, Witty discloses a rack 540. The rack 540 does not disclose the combination of vertical and horizontal support beams, side walls fastened to the frame, and first and second vertical

support members coupled to the cabinet frame at points recessed from the front of the cabinet frame. Witty also does not disclose an assembly having a vertical cable pathway between fingers of a bracket and side walls.

To make up for the limitations not disclosed by Witty, the Examiner states that claims 8 recites a cabinet to be an **existing** telecommunication cabinet. It is noted that claim 1 recites a combination of elements that make up the claimed cable management cabinet assembly. Applicants have not admitted that the combination of elements as recited is existing or is prior art. The Examiner has not provided a reference that discloses each and every structural limitation of the combination of elements recited in claim 1 to properly form the basis for rejection under 35 U.S.C. §102(e). Applicants respectfully submit that at least because Witty does not disclose each and every structural limitation recited in claim 1, a rejection based upon 35 U.S.C. §102(e) is improper.

Applicants are confused as to the basis of this anticipation rejection and inquire as to whether the Examiner intended to more appropriately form an obviousness rejection by combining Witty with a reference that teaches a telecommunications cabinet as claimed. Nonetheless, Applicants submit that an obviousness rejection based upon the combination of Witty and another reference that teaches a cabinet does not preclude patentability as the subject matter and the claimed invention of the present application was subject to an obligation of assignment, at the time the invention was made, to the same entity as that of the Witty reference. 35 U.S.C. §103(c).

Applicants therefore respectfully submit that independent claim 1 and dependent claims 2-7 are patentable.

### **Rejections Under 35 U.S.C. §103**

The Examiner rejected claims 9-12 under 35 U.S.C. §103(a) as being unpatentable over Canty (U.S. Patent D463,253 S) in view of Walters (U.S. Patent 5,758,002). Applicants respectfully traverse this rejection; however, claims 9-12 have been cancelled to advance this application to allowance.

**New claim 13**

New claim 13 has been added. Claim 13 recites a method of assembling a telecommunication cabinet including providing a cabinet providing having a panel of telecommunications equipment mounted to recessed vertical support members within the cabinet, the cabinet including a cabinet frame and side walls fastened to the frame. The method also includes sliding a bracket beneath loosened fasteners that mount the panel to the cabinet to create a vertical cable pathway between fingers of the bracket and one of the side walls.

For similar reasons as discussed with regards to claim 1, Applicants respectfully submit that claim 13 is patentable.

**SUMMARY**

It is respectfully submitted that each of the presently pending claims (claims 1-7 and 13) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise these arguments in the future.

Respectfully submitted,



MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: Oct. 28, 2003

Karen A. Fitzsimmons  
Karen A. Fitzsimmons  
Reg. No. 50,470  
KAF:cjm